CONTRACT #3 RFS # 317.30-060

Department of Finance & Administration Office for Information Resources (OIR)

VENDOR:
International Business
Machines Corporation (IBM)



RECEIVED

AUG 3 0 2006

FISCAL REVIEW

An amendment <u>must</u> be presented to the Fiscal Review Committee (FRC) if it meets <u>any</u> of the following conditions:

- > A non-competitive amendment request is submitted to OCR;
- > Increases the maximum liability;
- > Adds new services or changes the scope of services; or
- > Extends the term of the contract beyond the original term.

Use the following checklist to ensure copies of the proper documents have been submitted to FRC:

	ORIGINAL CONTRACT > If new non-competitive contract, actual language of the proposed contract (can be in draft form if necessary).
	SUMMARY SHEET FOR CONTRACT
I/A	REQUEST FOR CONTRACT (Competitive or Non-Competitive)
	ALL PRIOR AMENDMENTS
	SUMMARY SHEET FOR EACH PRIOR AMENDMENT
	REQUEST FOR NON-COMPETITIVE AMENDMENT If new amendment, actual language of the proposed amendment (can be in draft form if necessary).
	SUMMARY LETTER Detailing terms of contract or amendment and the basic justification for the non-competitive procurement. If request is submitted less than 60 days before effective date, a detailed explanation for why the request is late.
	ANY SUPPORTING DOCUMENTS
-	FULLY EXECUTED COPY OF FINAL DOCUMENT

FRC STAFF COMMITTEE CONTACT INFORMATION

Leni Chick
8th Floor, Rachel Jackson Building
(615) 253-2048 (direct)
(615) 253-3018 (fax)
leni.chick@legislature.state.tn.us

RECEIVED



AUG 3 0 2006

FISCAL REVIEW

STATE OF TENNESSEE

DEPARTMENT OF FINANCE AND ADMINISTRATION

OFFICE FOR INFORMATION RESOURCES 312 EIGHTH AVENUE NORTH SUITE 1600, TENNESSEE TOWER NASHVILLE, TENNESSEE 37243-0288 (615) 741-3700 FAX (615) 532-0471

DAVE GOETZ COMMISSIONER BILL EZELL
CHIEF INFORMATION OFFICER

August 30, 2006

Mr. James W. White Executive Director Fiscal Review Committee 8th Floor, Rachel Jackson Bldg. Nashville. TN

Dear Sir:

Please find attached, for the Fiscal Review Committee's consideration, documentation of a Non-Competitive Amendment request pertaining to the State's contract with International Business Machines Corporation (IBM) for the provision of Disaster Recovery Services for the State's Central Computing Facility. The Department of Finance and Administration respectfully requests to be placed on the agenda to present this request at the next Fiscal Review Committee meeting.

To facilitate the Committee's review, we present the following summary of the amendment:

- 1. Extends contract end date by six months from October 31, 2006 to April 30, 2007
- 2. Contract began November 1, 2001 and ends October 31, 2006; therefore, no extensions allowable without non-competitive amendment.
- 3. Amendment will extend the contract End Date and add additional funds for the extension period.
- 4. RFP for a new contract has been written and reviewed by OCR. Additional time is needed to respond to OCR's comments, allow for the Comptroller's review and approval, release the RFP and award the contract. Release of RFP is planned for January 2007.
- 5. Contract award expected April 2007.

Thank you for your consideration of this request. We look forward to appearing before the Committee at its next scheduled meeting.

Sincerely,

Bill Ezell

Chief Information Officer

REQUEST: NON-COMPETITIVE AMENDMENT CEIVED

APPROVED

AUG 3 0 2006

FISCAL REVIEW

Commissioner of Finance & Administration Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.								
) RFS# 317.30-060-07								
) State Agency Name : Finance and Administration								
EXISTING CONTRACT INFORMATON								
3) Service Caption: Disaster Recovery Services for the State's Central Computing	Service Caption : Disaster Recovery Services for the State's Central Computing Facility.							
4) Contractor: International Business Machines Corporation (IBM)								
5) Contract # FA-02-14760-00								
6) Contract Start Date:	November 1, 2001							
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised:	October 31, 2006							
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised : \$2,401,035.00								
PROPOSED AMENDMENT INFORMATON								
9) Proposed Amendment # FA-02-14760-04								
10) Proposed Amendment Effective Date: (attached explanation required if date is < 60 days after F&A receipt) November 1, 2006								
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	April 30, 2007							
12) Proposed Total Maximum Cost IF all Options to Extend the Contract are Exercised :	\$2,929,578.00							
13) Approval Criteria : use of Non-Competitive Negotiation is in the best interes (select one)	1 1 X 1 d3c of total deliberation is in the past interest of the section							
only one uniquely qualified service provider able to provide the service								
14) Description of the Proposed Amendment Effects & Any Additional Service :								
This amendment will extend the current contract term six months and increase the maximum liability to accommodate the additional months of service.								
15) Explanation of Need for the Proposed Amendment :								
For the following reasons, the State needs additional time to complete the RFP approval process	ss and subsequent contract award:							

1. The Procurement and Contract Management (PCM) area has received an unprecedented volume of RFPs and contracts to develop and review. With only two employees in the area, an additional staff member was hired in April and another one in July; however, a learning curve is present that reduces the unit's response time; 2. Critical priorities, such as Cover Tennessee, have resulted in other work (including Disaster Recovery) receiving secondary priority; 3. The RFP coordinator assigned to Disaster Recovery has a family illness which resulted in over a month of reduced daily work hours and her hours are still being affected. Based on the factors above, the 8 month lead time allotted was not enough to fully complete the process and have a new contract in place by November 1, 2006. RFP release is scheduled for January 2007. 16) Name & Address of Contractor's Current Principal Owner(s): (not required if proposed contractor is a state education institution) International Business Machines Corporation (IBM) 150 4th Avenue North Nashville, TN 37219 17) Documentation of Office for Information Resources Endorsement : (required only if the subject service involves information technology) Documentation Attached to this Request Documentation Not Applicable to this Request select one: 18) Documentation of Department of Personnel Endorsement: (required only if the subject service involves training for state employees) Documentation Attached to this Request select one: Documentation Not Applicable to this Request 19) Documentation of State Architect Endorsement: (required only if the subject service involves construction or real property related services) Documentation Not Applicable to this Request Documentation Attached to this Request select one: 20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives : The State began the RFP process in March 2006. To date, the RFP has been completed and submitted to OCR for initial review. OCR has reviewed the RFP and returned the document to F&A and is waiting for F&A's response and/or correction before approving and submitting to the Office of the Comptroller for their final review and approval. 21) Justification for the Proposed Non-Competitive Amendment: As stated in #20 above, the State has a RFP in process; however, it is felt that the remaining two months before the contract end date of October 31st does not provide adequate time to complete the outstanding RFP process items and award a contract. Another factor that was taken into account involves past history in awarding the current contract. IBM currently holds the Disaster Recovery contract which was awarded in November 2001. There were two RFP attempts to find a vendor. The first RFP attempt resulted in two yendors proposing but they failed to meet Mandatory requirements. Specifically, both proposers provided written objections to numerous terms of the RFP and pro forma contract and would not agree to terms. The State issued a second RFP and the contract was awarded to IBM; however, negotiations were still necessary that required additional time in the Schedule of Events to obtain final signatures. Based on the history in awarding the current contract and to accommodate the remaining RFP review/approval cycle and subsequent contract award, the State is requesting a six month extension. **REQUESTING AGENCY HEAD SIGNATURE & DATE:** (must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR—signature by an authorized signatory will be accepted only in documented exigent circumstances) Agency Head Signati

AMENDMENT FOUR TO CONTRACT FA-02-14760-00

This Contract, by and between the State of Tennessee, Department of Finance and Administration, hereinafter referred to as the State, and International Business Machines Corporation, hereinafter referred to as the Contractor, is hereby amended as follows:

- 1. Delete Section B.1 in its entirety and insert the following in its place:
 - B.1. Contract Term. This contract shall be effective for the period commencing on 11/01/2001 and ending on 04/30/2007. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period. However, if the State declares a Disaster within forty-two (42) days of the contract end date of 04/30/2007, the end date shall automatically be extended to cover the period for which Disaster recovery services are needed by the State.
- 2. Delete Section C.1 in its entirety and insert the following in its place:
 - C.1. Maximum Liability. Except as described below, the maximum liability of the State under this Contract shall not exceed Two Million Nine Hundred Twenty Nine Thousand Five Hundred Seventy Eight Dollars (\$2,929,578.00). The Service Rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder. The Service Rates include, but are not limited to, all applicable fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

The maximum liability stated above does not include daily usage charges nor incident-based charges to be incurred by the State in the event of an actual Disaster. Thus, in the event the State declares a Disaster; the Contract shall be amended to increase the maximum liability to cover a) daily usage charges at the rates set forth in Attachment D to this Contract and b) incident-based charges as applicable.

The other terms and conditions of this Contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

INTERNATIONAL BUSINESS MACHINES CORPORATION:

KOBER L. SHARP, SENIOR ACCOUNTING MGR., IBM BCRS DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. GOETZ, JR., COMMISSIONER	DATE
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APPROVED:	en et en versione (e general en
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REQUEST: RULE EXCEPTION

APPROVED	
Commissioner of Finance & Administration	
Date:	

RFS#

317. 30 — 060 — 07

INFORMATION ABOUT THE EXCEPTION(S) REQUESTED

SUBJECT RULE NUMBER(S):

0620-3-3-.07(5) - for an exception permitting a contract term greater than 60 months.

DESCRIPTION OF EXCEPTION(S):

The department requests a rule exception to permit a 66 month contract. The Office for Information Resources (OIR) requests approval to amend contract number FA-02-14760-00 to change the end date from October 31, 2006 to April 30, 2007.

JUSTIFICATION: (compelling rationale for and validation of rule exception request)

The State allotted an 8 month lead time for the RFP process and subsequent contract award. The RFP process began in March 2006. To date, the RFP has been completed and submitted to OCR for initial review. OCR has reviewed the RFP and returned the document to F&A and is waiting for F&A's response and/or correction before approving and submitting to the Office of the Comptroller for their final review and approval.

For the following reasons, the State needs additional time to complete the RFP approval process and subsequent contract award:

- 1. The Procurement and Contract Management (PCM) area has received an unprecedented volume of RFPs and contracts to develop and review. With only two employees in the area, an additional staff member was hired in April and another one in July; however, a learning curve is present that reduces the unit's response time;
- 2. Critical priorities, such as Cover Tennessee, have resulted in other work (including Disaster Recovery) receiving secondary priority;
- 3. The RFP coordinator assigned to Disaster Recovery has a family illness which resulted in over a month of reduced daily work hours and her hours are still being affected; and
- 4. Almost three weeks were required during the previous contract signing phase to negotiate with the current vendor.

Based on the factors above, the 8 month lead time allotted was not enough to fully complete the process and have a new contract in place by November 1, 2006. Therefore, a six month extension is being requested. RFP release is scheduled for January 2007.

INFORMATION REGARDING THE APPLICABLE CONTRACT CONTRACTOR: International Business Machines Corporation (IBM)						
SERVICE INVOLVED : Provision of Disaster Recovery Services f	for the State's Central Computing Facility.					
BEGIN DATE:	November 1, 2001					
END DATE (including ALL options for term extension):	April 30, 2007					
MAXIMUM LIABILITY (including ALL options for term extension):	\$2,929,578.00					

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AGENCY HEAD REQUEST SIGNATUR	E :
(signed by the procuring agency head or	• .
authorized signatory)	1

M.D. Stoety.

SIGNATURE DATE:

8-30-06



FAX TRANSMITTAL

TO:

Bill Ezell, Chief Information Officer

Office for Information Resources

FAX # 532-0471

FROM:

Mitzi Hale, OIR-PCM

FAX # 741-6164

DATE:

August 28, 2006

RFS#

317.30-061

RE:

Procurement Endorsement — Amendment #4 to Contract for Disaster

Recovery Services

NUMBER OF FAX PAGES (including cover): 1

The nature and scope of service detailed in the attached service procurement document(s) appears to require Office for Information Resources (OIR) review and support, because the procurement involves information technology or information systems services.

This communication seeks to ensure that OIR is aware of the procurement and has an opportunity to review the matter. Please determine whether OIR is supportive of the procurement. If you have any questions or concerns about this matter, please call Mitzi Hale at 615-741-3735.

Please indicate below your response to this proposed procurement, and return this communication at your earliest convenience (note the return FAX number above).

Thank you for your help.

Attachment(s)

OIR Endorsement:

OIR Chief Information Officer Signature

8/30/06

Date

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PROCUREMENT METHOD REQUEST

APPROVED

Commissioner of Finance & Administration

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Office of Contracts Review

		Date: JUN 1 8 2003
RES# 317.03-025/FA-02-14760-00	State Agency:	Finance and Administration
SERVICE DESCRIPTION: Business	s Recovery Services for Pr	int Materials
BEGIN DAIFE: November 1, 2001	END/DATE (incli	uding all options for term extension); October 31, 2006
MAXIMUM PABILITY (including all o	otions for term extension):	\$1,656,483
PROCUREMENT COMPETITIVE	VE NEGOTIATION	
METHOD: (selectione) (CRITERIA: (selectial)	public need will	not permit the delay incident to the RFP process ustification of why there is insufficient time for an RFP; competitive negotiation procedures & contractor selection criteria)
applicable)	no acceptable p	roposals have been received after an RFP process appetitive negotiation procedures & contractor selection criteria)
	rates payable fo	or the service is regulated by law inpetitive negotiation procedures & contractor selection criteria)
	the service is the	nat of a legal or expert witness Inpetitive negotiation procedures & contractor selection criteria)
	the total procure (attachment: con	ement cost is less than \$10,000 npetitive negotiation procedures & contractor selection criteria)
(attachment	IVE COMPETITIVE METH 1: background informatio 2: procedures & criteria for	IOD — Comptroller approval may be required on & justification for an alternative procurement method; or contractor selection)
NON-COMF	PETITIVE NEGOTIATION	- with: Internation Business Machines Incorporated
APPROVAL CRITERIA:	Yell of the ding of the ding of	ely qualified service provider able to provide the service okground information & justification)
(selectione)	use of Non-Con	npetitive Negotiation is in the best interest of the state ekground information & justification)
AGENCY HEAD SIGNATURE & DAT	E: M.D. Goetz, Jr., Co	6-13-03
PRINTED NAME, TITLE, AGENCY:	W.D. GOEZ, di., COI	RECEIVED
		JUN 1 6 2003

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Contract Number FA-02- 14760 -00						State Ag	ency	Finance and	Admin	istration			
RFS Number 317.03-060						Division Office for Information Resources							
	Contractor						Velvet Hunter 741-9664 Vendor ID Number						
International Business Machines Corporation						X V C 130871985-44							
			27 tells the 18 ft 1		Service D	escription		in de la company	n, en	SE BIS SERV	Fig. (1)		
Disaster	r recovery se	ervices	31.1	*** * ****** <u>#</u>		<u> </u>	I washing a		<u> </u>	His Court of Sale Printer Co. C	· · · · · · · · · · · · · · · · · ·	4. 2. 200 C. 200 C. 200 C. 200 C.	
Contract Begin Date							Contract End Date						
November 1, 2001							October 31, 2006						
Allotment Code Cost Center			r Ot	Object Code Fu		nd Grant Grant Code				Sub	grant Code		
317.03		172		082	•	12		on STARS					
FY	State	Funds	Federa	il Funds		partmental unds		Other Fundi	ng 🕴	The Company of the Property of the Company of the C		Amount nendments)	
02			1 11 11 12 12 12 12 12 12 12 12 12 12 12			\$160,000.0			\$160,000.00				
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05 06					\$275,000.00 \$285,000.00			,				3275,000.00 3285,000.00	
07					\$95,000.0				. :-		4	\$95,000.00	
. ⊪Total					\$1,330,000.0						\$1,	,330,000.00	
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\boxtimes	Contracto	tractor is on STARS					State Fiscal Contact						
\boxtimes	Current Form W-9 On File With Accounts				Name		aureen Abbe			D (1	•		
	OR Form W-9 Attached				Address 20th Floor, Snodgrass TN Tower MAA Phone 615-741-6070 10/17/01								
	Service P	Procuring Agency Budget Officer Approval Signature											
	Contractor is a SUBRECIPIENT												
	(as defined by OMB Circular A-133)						Muhial Manon						
COMPLETE FOR ALL AMENDMENTS (only)								Fundir	ng Cer	tification			
		Base Cor Prior Ame		This Ame	and the Galletin Co. 12 and 12	Pursuant to	D.C.A	., Section 9-6	-113, I,	C. Warren Nec certify that ther	el, Com	nmissioner of	
Contract	t End Date		y 2 1 - 3 1 5 .	na i dan arrena arrena de la composición del composición de la com	er i germanisk	the approp	riation :	from which th	is oblig	ation is require	d to be	paid that is	
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